

EXHIBIT D

Bernard Beitel

From: Bernard Beitel
Sent: Monday, August 13, 2007 11:36 AM
To: 'To: Jerome A. Deener'; 'ashramenko@deenerlaw.com'; 'manfredonia@verizon.net'
Cc: Arthur Katz
Subject: FW: Lower Manhattan Dialysis Center, Inc, et al v Lantz



Document.pdf (54 KB)

Gentlemen:

On August 6, 2007 we sent you the attached letter calling your attention to the fact that the United States District Court lacks subject matter jurisdiction of the above referenced action and that remand is required. We have had no response to our letter. Unless you advise us by the close of business today that you are taking the appropriate action to remand this action to the Supreme Court, New York County, we intend to take the action ourselves and apply for such other relief as may be appropriate under the circumstances, all as set forth in our August 6 letter.

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August 13, 2007

Via Facsimile Transmission 212-682-6104


Bernard Beitel, Esq.
Otterboug, Steindler, Houston & Rosen, P.C.
230 Park Avenue
New York, NY 10169-0075

Re: Lower Manhattan Dialysis Center, Inc., et al. v. Lantz
U.S.D.C., S.D.N.Y., 07 Civ. 6903 (DLC)

Dear Mr. Beitel:

Enclosed is a copy of our fax to you of August 7, 2007 on which confirmation of your receipt is noted. We maintain that there is neither a legal nor a factual basis for removal from the Federal District Court. We will respond appropriately and vigorously to any attempt to do so on your part.

Very truly yours,


Jerome A. Deener

JAD:jac

Enclosure

cc: Mrs. Marie Lantz (w/enclosure)

John Manfredonia, Esq. (w/enclosure) (via fax 201-227-1936)

cc: [illegible]

[illegible text]

[illegible text]

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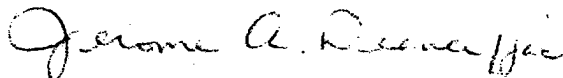
New York, NY 10169-0075

Re: Lower Manhattan Dialysis Center, Inc., et al. v. Lantz
U.S.D.C., S.D.N.Y., 07 Civ. 6903 (DLC)

Dear Mr. Beitel:

Your request for a remand to the State Supreme Court is both inappropriate and without basis. This case will be heard in the Federal District Court. Any attempt by you or your client to remove the action to the Supreme Court will be dealt with appropriately.

Very truly yours,



Jerome A. Deener

JAD:jac

cc: Mrs. Marie Lantz

John Manfredonia, Esq. (via fax 201-227-1936)

Bernard Beitel

From: Bernard Beitel
Sent: Monday, August 13, 2007 5:19 PM
To: 'To: Jerome A. Deener'; 'ashramenko@deenerlaw.com'; 'manfredonia@verizon.net'
Cc: Arthur Katz
Subject: Lower Manhattan Dialysis Center, Inc., et al v. Lantz

We have received the e-mail from Judy Cresenta sent to me today shortly before 3:00 PM. At 3:08 PM we also received a four page fax from your office containing your letters to me dated August 7 and 13, 2007. I checked with our fax room and the log they maintain does not reflect the receipt by our office of your August 7, 2007 fax. I had not seen your August 7, 2007 letter at the time I sent you my e-mail at 11:36 AM this morning .

In our August 6 letter we provided you with citations and a reference to Moore's Federal Practice supporting our view that it is necessary to determine the citizenship of the members of a limited liability company in analyzing whether or not complete diversity exists between the parties. Your response does not comment upon the authorities we cited and does not provide us with any citations supporting your position that complete diversity is present.

We would appreciate it if you would provide us with the authorities supporting your conclusion. In considering this jurisdictional issue, please note that our position is supported by the United States Circuit Court for the Second Circuit. Handelsman v. Bedford Village Associates Ltd. Partnership, 213 F.3d 48, 51-52 (2d Cir. 2000).

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